

The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below. This document was signed electronically at the time and date indicated, which may be materially different from its entry on the record.



Dated: 09:47 AM November 16, 2015

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE:) CHAPTER 11
SII LIQUIDATION COMPANY,) CASE NO. 10-60702
Debtors.) CONSOL. ADV. NO. 14-6024
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SCHWAB INDUSTRIES, INC.,) JUDGE RUSS KENDIG
Plaintiff,)
v.)
THE HUNTINGTON NATIONAL) MEMORANDUM OF DECISION
BANK, et al.,) (NOT INTENDED FOR
Defendants.) PUBLICATION)

Now before the court is Plaintiff's request to extend its deadline to respond to a pending motion for sanctions until after an appeal in this adversary is decided. The motion is opposed.

The bankruptcy court's jurisdiction is premised in 28 U.S.C. §§ 1334, 157 and the general order of reference, Order 2012-7 dated April 4, 2012, entered by the United States District Court for the Northern District of Ohio. Venue is proper under 28 U.S.C. § 1409.

This opinion is not intended for publication or citation. The availability of this opinion,

in electronic or printed form, is not the result of a direct submission by the court.

On November 24, 2014, Defendants Hahn Loeser & Parks LLP (“Hahn Loeser”), Andrew Krause (“Krause”) and Lawrence Oscar (“Oscar”) (collectively “HLP Defendants”) filed a motion for Rule 11 sanctions against Plaintiff.¹ On January 7, 2015, the court granted Plaintiff’s motion to allow them to respond to the sanctions motion fourteen days after a decision on the merits of the underlying claims. On September 21, 2015, the court dismissed the claims in the complaint and Plaintiff appealed. On October 7, 2015, Plaintiff filed a second motion for leave to extend its response time on the sanctions motion, this time seeking to extend its response deadline until after the appeal is decided. HLP Defendants object, citing delay and their position that the appeal is not meritorious as grounds for denial.

Scheduling decisions are within the discretionary power of this court. Kimble v. Hosoi, 439 F.3d 331 (6th Cir. 2006). The court overrules the HLP Defendants’ objection. First, the outcome of the appeal will bear on the sanctions motion, likely providing support for one side or the other. Second, extending the response deadline does not result in undue prejudice to HLP Defendants. This is not a situation where additional delay has a continuing deleterious impact on an interest or prevents exercise of a specific right. Third, HLP Defendants’ objection based on delay is belied by their argument that the appeal was untimely and the district court therefore lacks jurisdiction. If true, the district court is likely to reach a decision relatively quickly. Consequently, the motion for leave will be granted by a separate order to be entered immediately.

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¹ HLP Defendants also filed a motion in the related adversary 14-6025, commenced when they removed the underlying state court case to the bankruptcy court. (This adversary is a result of Defendant Huntington National Bank’s removal.) Plaintiff’s filed a motion in the companion adversary seeking authority to respond to the sanctions motion after a decision on the merits of the complaint. Following the filing of the motion for leave, the adversary proceedings were consolidated.

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